

SUMTER COUNTY BOARD OF COMMISSIONERS
EXECUTIVE SUMMARY

SUBJECT: Stipulated Settlement Agreement with the Florida Department of Community Affairs Regarding CP-A2008-0001 Future Land Use Map Amendment for 674 Properties, LLC (Staff recommends approval).

REQUESTED ACTION: **Approve Stipulated Settlement Agreement with Florida Department of Community Affairs.**

☐ Work Session (Report Only) **DATE OF MEETING:** 10/13/2009
☒ Regular Meeting ☐ Special Meeting

CONTRACT: ☒ N/A Vendor/Entity: _____
Effective Date: _____ Termination Date: _____
Managing Division / Dept: Planning

BUDGET IMPACT: _____

☐ Annual **FUNDING SOURCE:** _____
☐ Capital **EXPENDITURE ACCOUNT:** _____
☒ N/A

HISTORY/FACTS/ISSUES:

On February 10, 2009, the Board adopted a Future Land Use amendment (CP-A2008-0001) from Agriculture to Mixed Use for a recreational vehicle park on 139 acres located on C-673 (Veteran's Highway) between US 301 and CR 674. The applicant for the amendment is 674 Properties, LLC.

On April 8, 2009, the Florida Department of Community Affairs (DCA) issued a Notice of Intent to find the subject future land use amendment not in compliance with Chapter 163, Florida Statutes, and Rule 9J-5, Florida Administrative Code. DCA contends the future land use amendment is not in compliance because it is not supported by appropriate data and analysis demonstrating the maximum development potential is needed to accommodate the projected population within the planning timeframe of the County's Comprehensive Plan; the future land use amendment constitutes urban sprawl; the data and analysis provided do not demonstrate that the site is suitable for the development allowed by the future land use amendment based on the environmental characteristics of the site; and the transportation analysis is not based on the maximum development potential.

After DCA's issuance of a Notice of Intent to find a future land use map not in compliance, the County has three (3) options:

1. Rescind adoption of the amendment;
2. Proceed through an Administrative Hearing process; or
3. Negotiate a stipulated settlement agreement with DCA.

The Board directed staff to proceed with negotiating a stipulated settlement agreement with DCA.

Following the direction of the Board, staff and the applicant had several meetings with DCA staff (both via telephone and in-person) to discuss DCA's concerns with the amendment and to negotiate a stipulated settlement agreement with DCA to resolve the compliance issues. Attached is a letter to DCA from Brad Cornelius, Planning Manager, dated August 25, 2009, which provides a response to DCA regarding each of their concerns. DCA accepted the response to their objections with the addition of an agreement between the applicant and the City of Bushnell that prohibits future

connections to the extended sewer line.

The negotiations with DCA revealed the primary objection from DCA is the potential encouragement of premature conversion of rural land to urban land due to the extension of potable water and sewer services from the City of Bushnell to the site (i.e. urban sprawl). To resolve this objection, the applicant eliminated the extension of the potable water line and will utilize an on-site potable water treatment facility, limited the sewer line to 6" in diameter, and included a prohibition of future connections to the sewer line from C-673 to approximately 2.33 miles to the north along US 301.

The stipulated settlement agreement provides that within 60 days of the execution of the stipulated settlement agreement, the County will adopt the following policy into the Future Land Use Element of the Comprehensive Plan:

Policy 7.1.17.3: The project identified on the Future Land Use Map as 04-5 and known as the Southern Villas RV Resort shall adhere to following standards:

a. The Southern Villas project is a Recreational Vehicle Park ("Project") that will be developed as a RV Planned Unit Development (RVPUD) by 674 Property, LLC ("Owner"). The project shall utilize CR 673 as an access point with additional emergency access provided from CR 674 and CR 654A. The project shall provide the necessary screening and buffering to ensure compatibility between adjacent land uses. The screening and buffering shall be determined through the RVPUD zoning process.

b. The maximum number of RV spaces shall be 400 and shall be limited to Class "A" motor homes and motorcoaches as defined by Section 320.01, Florida Statutes, and the Sumter County Land Development Code. Occupancy of RV units shall be restricted to persons fifty (50) years of age or older. Any accessory uses on individual lots shall be set forth in the RVPUD zoning, including any nonresidential structures.

c. No publicly dedicated roadways will be constructed within the property and the County shall have no obligation for the improvement or maintenance of private roads and road rights-of-way within the Property. The County has no obligation or responsibility for the improvement or maintenance of such roadways and shall look solely to the Owner or the Homeowner's Association formed for that purpose for improving and maintaining the roads and rights-of way.

d. The Property shall be served by central sanitary sewer service from the City of Bushnell. This will be accomplished through the installation of a sanitary sewer force main which is limited in size diameter, not greater than 6 inches, to provide the minimum flow required to transfer waste water to the City of Bushnell's sanitary sewer system. The County agrees that no new development will be authorized to connect to this line for a distance of 12,300 feet or 2.33 miles, running north along U.S Highway 301 from the intersection of County Road 673 and U.S. 301. Also, pursuant to the agreement entered into between the City of Bushnell and the developer on September 10, 2009 and amended on September 25, 2009, the City of Bushnell agrees that no new development will be authorized to connect to this line for a distance of 12,300 feet or 2.33 miles, running north along U.S Highway 301 from the intersection of County Road 673 and U.S. 301.

e. The extension of sewer lines shall be constructed by the Owner, at the Owner's expense, to ensure that the City of Bushnell can provide sufficient sanitary sewer capacity for the total approved number of RV units (400 units) and nonresidential square footage. Prior to any development approvals for the Project, the existence of sufficient sewer service capacity shall be confirmed by an executed Developer Agreement between the Owner and the City of Bushnell for the provision of the required

sanitary sewer services. The County shall coordinate with the City of Bushnell to adopt the required sanitary sewer improvements into the first 3-years of the 5-year capital improvement plan of the City of Bushnell's Comprehensive Plan at the City's next regularly scheduled update of its capital improvements plan.

f. The Owner shall install, at the owner's expense, an on-site potable water system, including a well, pump, and treatment system, which are sized to provide the minimum capacity required to serve the Project, including the capacity to meet minimum fire flow requirements.

g. Surface water and storm water management shall be engineered and designed to serve the entire Project pursuant to permits issued by the Southwest Florida Water Management District and as required by the Sumter County Land Development Code. The County shall have no obligation for the improvements or maintenance of such surface water and storm water management system. Each owner of any portion of the Project shall look solely to the Owner or a Homeowner's Association formed for that purpose for such improvements and maintenance.

h. No development shall occur in the 100-year floodplain or wetlands. The owner shall place the undeveloped portion of the Property that is identified as open space, the 100 year flood plain, and delineated wetlands in a conservation easement, in a manner and form allowed by state law. Such easement shall be recorded in the Public Records of Sumter County, Florida, with the understanding that it is binding on the Owner's successors and assigns.

i. The Owner shall create a Homeowner's Association (the "Association"). Each owner within the Property shall be a member of the Association. The Association shall have the authority and responsibility to maintain, repair, and replace roads and rights-of-way; and, the surface water and storm water management system referenced in Policies 7.1.17.3c and f, above, as well as, all tracts, water retention areas and other common areas.

j. All site improvements, structures and signs shall be permitted by Sumter County pursuant to the County's Land Development Code and normal permitting requirements.

It is important to recognize the proposed policy is identical, with the exception of the addition of the prohibition of the future connections to the extended sewer line and the change to an on-site potable water treatment facility, to the conditions contained within the Memorandum of Agreement the Board adopted with this future land use map amendment. However, DCA did not recognize the Memorandum of Agreement to be binding.

On October 6, 2009, staff received notification from DCA legal staff that DCA Secretary Pelham has agreed that the adoption of this policy will resolve all of DCA's objections to the proposed amendment.

If the Board executes the proposed settlement agreement, then staff will prepare the required remedial amendment to adopt the above policy and provide public notice of the adoption hearing for the remedial amendment. It is anticipated that the adoption hearing for the remedial amendment will be in November.

Attached for the Board's review and information are:

Stipulated Settlement Agreement

Letter from Mr. Brad Cornelius, Planning Manager, to DCA dated August 25, 2009

Developer Agreement between the City of Bushnell and applicant related to utility extension

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

DEPARTMENT OF COMMUNITY
AFFAIRS,

Petitioner,

vs.

Case No.: 09-2247GM

SUMTER COUNTY,

Respondent,

and

674 PROPERTY, LLC,

Intervenor.

_____ /

STIPULATED SETTLEMENT AGREEMENT

THIS STIPULATED SETTLEMENT AGREEMENT is entered into by and between the State of Florida, Department of Community Affairs and Sumter County as a complete and final settlement of all claims raised in the above-styled proceeding.

RECITALS

WHEREAS, the State of Florida, Department of Community Affairs (DCA or Department), is the state land planning agency and has the authority to administer and enforce the Local Government Comprehensive Planning and Land Development Regulation Act, Chapter 163, Part II, Florida Statutes; and

WHEREAS, Sumter County (Local Government or County) is a local government with the duty to adopt comprehensive plan amendments that are “in compliance;” and

WHEREAS, the Local Government adopted Department Comprehensive Plan Amendment Number 09-1, also known as County Comprehensive Plan Amendment 2008-01, (Plan Amendment) by Ordinance Number 2009-02 on February 10, 2009; and

WHEREAS, the Plan Amendment proposes to amend the Future Land Use Map and the Future Land Use Element of the County's Comprehensive Plan; and

WHEREAS, the Department issued its Statement and Notice of Intent regarding the Amendment on April 8, 2009; and

WHEREAS, as set forth in the Statement of Intent, the Department contends that the Amendment is not "in compliance" because it is not supported by appropriate data and analysis demonstrating that the development potential allowed by the Plan Amendment is needed to accommodate the projected population within the planning timeframe of the County's Comprehensive Plan; constitutes urban sprawl; the data and analysis provided do not demonstrate that the site is suitable for the development allowed by the Plan Amendment based on the environmental characteristics of the Plan Amendment site; and the transportation analysis submitted with the Plan Amendment is not based on the maximum development potential of the FLUM change; and

WHEREAS, pursuant to Section 163.3184(10), Florida Statutes, DCA has initiated the above-styled formal administrative proceeding challenging the Amendment; and

WHEREAS, the Local Government disputes the allegations of the Statement of Intent regarding the Amendment; and

WHEREAS, the parties wish to avoid the expense, delay, and uncertainty of lengthy litigation and to resolve this proceeding under the terms set forth herein, and agree it is in their respective mutual best interests to do so;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinbelow set forth, and in consideration of the benefits to accrue to each of the parties, the receipt and sufficiency of which are hereby acknowledged, the parties hereby represent and agree as follows:

GENERAL PROVISIONS

1. Definitions. As used in this agreement, the following words and phrases shall have the following meanings:

- a. Act: The Local Government Comprehensive Planning and Land Development Regulation Act, as codified in Part II, Chapter 163, Florida Statutes.
- b. Agreement: This stipulated settlement agreement.
- c. Comprehensive Plan Amendment or Plan Amendment: Department Comprehensive Plan Amendment Number 09-1, also known as County Comprehensive Plan Amendment 2008-01, adopted by Sumter County Ordinance Number 2009-02 on February 10, 2009.
- d. DOAH: The Florida Division of Administrative Hearings.
- e. In compliance or into compliance: The meaning set forth in Section 163.3184(1)(b), Florida Statutes.
- f. Notice: The notice of intent issued by the Department to which was attached its statement of intent to find the plan amendment not in compliance.
- g. Petition: The petition for administrative hearing and relief filed by the Department in this case.

h. Remedial Action: A remedial plan amendment, submission of support document or other action described in the statement of intent or this agreement as an action which must be completed to bring the plan amendment into compliance.

i. Remedial Plan Amendment: An amendment to the plan or support document, the need for which is identified in this agreement, including its exhibits, and which the local government must adopt to complete all remedial actions. Remedial plan amendments adopted pursuant to this Agreement must, in the opinion of the Department, be consistent with and substantially similar in concept and content to the ones identified in this Agreement or be otherwise acceptable to the Department.

j. Statement of Intent: The statement of intent to find the Plan Amendment not in compliance issued by the Department in this case.

k. Support Document: The studies, inventory maps, surveys, data, inventories, listings or analyses used to develop and support the Plan Amendment or Remedial Plan Amendment.

2. Department Powers. The Department is the state land planning agency and has the power and duty to administer and enforce the Act and to determine whether the Plan Amendment is in compliance.

3. Negotiation of Agreement. The Department issued its Notice and Statement of Intent to find the Plan Amendment not in compliance, and filed the Petition in this case to that effect. Subsequent to the filing of the Petition the parties conferred and agreed to resolve the issues in the Petition, Notice and Statement of Intent through this Agreement. It is the intent of this Agreement to resolve fully all issues between the parties in this proceeding.

4. Dismissal. If the Local Government completes the Remedial Actions required by this Agreement, the Department will issue a cumulative Notice of Intent addressing both the Remedial Plan Amendment and the initial Plan Amendment subject to these proceedings. The Department will file the cumulative Notice of Intent with the DOAH. The Department will also file a request to relinquish jurisdiction to the Department for dismissal of this proceeding or for realignment of the parties, as appropriate under Section 163.3184(16)(f), Florida Statutes.

5. Description of Provisions not in Compliance and Remedial Actions; Legal Effect of Agreement. Exhibit A to this Agreement is a copy of the Statement of Intent, which identifies the provisions not in compliance. Exhibit B contains Remedial Actions needed for compliance. Exhibits A and B are incorporated in this Agreement by this reference. This Agreement constitutes a stipulation that if the Remedial Actions are accomplished, the Plan Amendment will be in compliance.

6. Remedial Actions to be Considered for Adoption. The Local Government agrees to consider for adoption by formal action of its governing body all Remedial Actions described in Exhibit B no later than the time period provided for in this Agreement.

7. Adoption or Approval of Remedial Plan Amendments. Within 60 days after execution of this Agreement by the parties, the Local Government shall consider for adoption all Remedial Actions or Plan Amendments and amendments to the Support Documents. This may be done at a single adoption hearing. Within 10 working days after adoption of the Remedial Plan Amendment, the Local Government shall transmit 5 copies of the amendment to the Department as provided in Rule 9J-11.0131(3), Florida Administrative Code. The Local Government also shall submit one copy to the regional planning agency and to any other unit of

local or state government that has filed a written request with the governing body for a copy of the Remedial Plan Amendment and a copy to any party granted intervenor status in this proceeding. The Remedial Plan Amendment shall be transmitted to the Department along with a letter which describes the remedial action adopted for each part of the plan amended, including references to specific portions and pages.

8. Acknowledgment. All parties to this Agreement acknowledge that the “based upon” provisions in Section 163.3184(8), Florida Statutes, do not apply to the Remedial Plan Amendment.

9. Review of Remedial Plan Amendments and Notice of Intent. Within 30 days after receipt of the adopted Remedial Plan Amendments and Support Documents, the Department shall issue a Notice of Intent pursuant to Section 163.3184, Florida Statutes, for the adopted amendments in accordance with this Agreement.

a. In Compliance: If the adopted Remedial Actions satisfy this Agreement, the Department shall issue a cumulative Notice of Intent addressing both the Plan Amendment and the Remedial Plan Amendment as being in compliance. The Department shall file this cumulative notice with DOAH and shall move to realign the parties or to have this proceeding dismissed, as may be appropriate.

b. Not in Compliance: If the Remedial Actions do not satisfy this Agreement, the Department shall issue a Notice of Intent to find the Plan Amendment not in compliance and shall forward the notice to DOAH for consolidation with the pending proceeding.

10. Effect of Amendment. Adoption of any Remedial Plan Amendment shall not be counted toward the frequency restrictions imposed upon plan amendments pursuant to Section 163.3187(1), Florida Statutes.

11. Purpose of this Agreement; Not Establishing Precedent. The parties enter into this Agreement in a spirit of cooperation for the purpose of avoiding costly, lengthy and unnecessary litigation and in recognition of the desire for the speedy and reasonable resolution of disputes arising out of or related to the Plan Amendment. The acceptance of proposals for purposes of this Agreement is part of a negotiated agreement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances or by any other local government.

12. Approval by Governing Body. This Agreement has been approved by the Local Government's governing body at a public hearing advertised at least 10 days prior to the hearing in a newspaper of general circulation in the manner prescribed for advertisements in Section 163.3184(15)(e), Florida Statutes. This Agreement has been executed by the appropriate officer as provided in the Local Government's charter or other regulations.

13. Changes in Law. Nothing in this Agreement shall be construed to relieve either party from adhering to the law, and in the event of a change in any statute or administrative regulation inconsistent with this agreement, the statute or regulation shall take precedence and shall be deemed incorporated in this Agreement by reference.

14. Other Persons Unaffected. Nothing in this Agreement shall be deemed to affect the rights of any person not a party to this Agreement. This Agreement is not intended to benefit any third party.

15. Attorney Fees and Costs. Each party shall bear its own costs, including attorney fees, incurred in connection with the above-captioned case and this Agreement.

16. Effective Date. This Agreement shall become effective immediately upon execution by the Department and the Local Government.

17. Filing and Continuance. This Agreement shall be filed with DOAH by the Department after execution by the parties. Upon the filing of this Agreement, the administrative proceeding in this matter shall be stayed by the Administrative Law Judge in accordance with Section 163.3184(16)(b), Florida Statutes.

18. Retention of Right to Final Hearing. Both parties hereby retain the right to have a final hearing in this proceeding in the event of a breach of this Agreement, and nothing in this Agreement shall be deemed a waiver of such right. Any party to this Agreement may move to have this matter set for hearing if it becomes apparent that any other party whose action is required by this Agreement is not proceeding in good faith to take that action.

19. Construction of Agreement. All parties to this Agreement are deemed to have participated in its drafting. In the event of any ambiguity in the terms of this Agreement, the parties agree that such ambiguity shall be construed without regard to which of the parties drafted the provision in question.

20. Entire Agreement. This is the entire agreement between the parties and no verbal or written assurance or promise is effective or binding unless included in this document.

21. Governmental Discretion Unaffected. This Agreement is not intended to bind the Local Government in the exercise of governmental discretion which is exercisable in accordance with law only upon the giving of appropriate public notice and required public hearings.

22. Multiple Originals. This Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose.

23. Captions. The captions inserted in this Agreement are for the purpose of convenience only and shall not be utilized to construe or interpret any provision of this Agreement.

In witness whereof, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

DEPARTMENT OF COMMUNITY AFFAIRS

By: _____ Date: _____
Charles Gauthier, AICP
Director, Division of Community Planning

Approved as to form and legality:

Assistant General Counsel

SUMTER COUNTY

By: _____ Date: _____

Approved as to form and legality:

County Attorney

EXHIBIT

A

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRSIN RE: SUMTER COUNTY
COMPREHENSIVE PLAN AMENDMENT
09-1; AMENDING THE FUTURE LAND
USE MAP AND THE FUTURE LAND USE
ELEMENT ADOPTED BY ORDINANCE No.
2009-02 ON FEBRUARY 10, 2009

Docket No. 09-1-NOI-6001-(A)-(I)-(N)

STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN AMENDMENTS
NOT IN COMPLIANCE

The Florida Department of Community Affairs, pursuant to Section 163.3184(10), Florida Statutes (F.S.), and Rule 9J-11.012(6), Florida Administrative Code (F.A.C.), hereby issues this Statement of Intent to find Future Land Use Map amendment CPA 2008-0001 adopted by Ordinance Number 2009-02, on February 10, 2009 as part of the Sumter County 09-1 amendment package, Not In Compliance based upon the Objections, Recommendations and Comments Report ("ORC Report") issued by the Department on December 19, 2008 and the changes made to the amendments as adopted. The Department finds that the amendment is not "in compliance," as defined in Section 163.3184(1)(b), F.S., and not consistent with Chapter 163, Part II, F.S., Chapter 9J-5, F.A.C. and the State Comprehensive Plan, Chapter 187, F.S., for the following reasons:

I. CONSISTENCY WITH CHAPTER 163, F.S., AND RULE 9J-5, F.A.C.:

A. Inconsistent Provisions The inconsistent provisions of the amendments under this subject heading are as follows:

1. Urban Sprawl: The amendment is not supported by appropriate data and analysis demonstrating that the development potential allowed by the amendment is needed to accommodate the projected population within the planning timeframe of the County's Comprehensive Plan which is 2010. The needs analysis submitted with the amendment is based

on a 400 unit Recreational Vehicle (RV) Park, yet the comprehensive plan amendment does not include a policy limiting the development of this site to the 400 RV units. The amendment changes land currently designated Agricultural to Mixed Use which would allow development up to 455 residential units and over 200,000 square feet of non-residential space in an area that has significant environmental constraints and at a considerable distance from existing urban centers. The subject site is located approximately three miles from the southeastern part of the City of Bushnell and has no access to central water and sewer facilities, which makes it internally inconsistent with Future Land Use Policy 7.1.1.2 of the Sumter County Comprehensive Plan. Furthermore, the amendment states that the site will obtain potable water and wastewater services from the City of Bushnell, but the City's Comprehensive Plan does not currently include a financially feasible plan for the extension of services to this part of unincorporated Sumter County. The amendment is not supported by data and analysis demonstrating how the location of an intensive urban land use designation in a rural, agricultural area and the extension of urban services approximately three miles from Bushnell to this area will result in a future growth pattern that discourages urban sprawl and ensures a compact urban form of development. Without a comprehensive planning approach in place, the extension of urban services to such a rural area of the county would increase development pressure on the adjacent rural areas currently designated Agricultural and lead to premature conversion of agricultural areas to urban use. Therefore, the proposed amendment displays the following indicators of urban sprawl pursuant to Rule 9J-5.006(5)(g), F.A.C.

- Allows for substantial areas to develop as single-use development or uses in excess of demonstrated need
- Designates urban development in rural areas at substantial distances from existing urban areas while leaping over undeveloped lands that are suitable for development.

- Promotes premature conversion of rural land to urban uses and fails to protect environmentally sensitive areas.
- Fails to protect adjacent agricultural activities
- Fails to maximize use of existing public facilities and services
- Fails to maximize use of future public facilities and services
- Allows for land use patterns which disproportionately increase the cost of providing and maintaining facilities and services
- Fails to provide a clear separation between rural and urban uses
- Discourages infill development or the redevelopment of existing neighborhoods and communities

In addition, the amendment is internally inconsistent with the following Future Land Use Policies: 7.1.1.2, 7.1.1.4, 7.1.1.5, 7.1.2.1, 7.1.1.2, and 7.1.6.1 regarding the discouragement of urban sprawl.

Authority: Section 163.3177(2), (6)(a) and (8), F.S. and Rules 9J-5.005(2)(a), (b), (c), (d), & (e) and (5), 9J-5.006 (2)(c) and (3)(b)8, 9J-5.006(5)(g) – (k), 9J-5.011(2)(b)3., F.A.C.

2. Environmental Suitability: The data and analysis provided do not demonstrate that the site is suitable for the development allowed by the amendment based on the environmental characteristics of the amendment site. A substantial part of the subject site is located within the 100 year floodplain, and according to the SWFWMD the property was subject to extensive flooding during the 2004 hurricane season. A RV park development in this area would lead to substantial increases in impervious surface and would increase the flooding potential on the subject site. Therefore, the County has not demonstrated that the subject site is suitable for the increased development potential that would be allowed by the proposed amendment.

In addition, the amendment is internally inconsistent with the following Conservation Element objectives and policies of the Sumter County Comprehensive Plan: Objective 3.1.2 and Policy 3.1.2.4 regarding development within the 100-year floodplain.

Authority: Sections 163.3177(6)(a, c, and d); and 163.3177(2, 8, and 10), F.S., and Rules 9J-5.005(2 and 5); 9J-5.006(2)(b), (3)(b)1. and (3)(c)6.; 9J-5.011(2)(b)5 and (3)(c)4; 9J-5.013(2)(c)6 and (3) F.A.C.; and

3. Transportation: The transportation analysis submitted with CPA-2008-0001 is not based on the maximum development potential of the FLUM change. The transportation analysis was based on 450 occupied dwelling (mobile home) units, and not the maximum development potential allowed by the mixed use land use category. The maximum development potential of this site under the mixed use land use category would allow 455 dwelling units and over 200,000 square feet of commercial development. The proposed amendment does not provide any data and analysis on the impact the commercial development allowed by the proposed amendment would have on the surrounding roadways. Furthermore, the transportation analysis uses the ITE land use code 240 for mobile home parks. The comprehensive plan amendment does not limit the development to 450 RV units or that those units will be mobile home units and the use of ITE Code 240 is inappropriate to analyze the impacts of the mixed use land use category. Therefore, the amendment is not based on a professionally acceptable transportation analysis demonstrating the impacts the amendment will have on the surrounding roadways.

[Sections 163.3164(32); 163.3177(2), (3), (6)(a) & (j) and (8), F.S.; Rules 9J-5.005(2) and (5); 9J-5.006(2)(a), (3)(b)1 and (3)(c)3; 9J-5.016(1)(a) and (c), (2)(b),(c), (e) & (f), and (4), 9J-5.019 (3). F.A.C.]

B. Recommended remedial actions: The above inconsistencies may be remedied by taking the following actions:

1. **Urban Sprawl:** Revise the amendment to include an analysis, based on professionally acceptable methodology and assumptions, demonstrating that the proposed additional acreage of residential and non-residential land uses are needed in order to accommodate the County's projected population growth for the planning timeframe of the County's Comprehensive Plan. The needs analysis must take into account vacant, developable land that is available to meet Sumter County's population projections through 2010. If it is the intent of the County to only allow the development of a RV park on the subject site, either place a site specific policy in the plan that limits the amendment to the intended use or assign the site a land use category that is more appropriate for and allows only a RV park. Include an analysis demonstrating that the designation of an intensive urban land use in an area surrounded by predominantly rural, agricultural land does not constitute urban sprawl. In addition, include with the amendment an analysis that demonstrates that the extension of potable water and wastewater services from Bushnell to this part of the County will not lead to urban sprawl and show how it is consistent with the future growth plans for Sumter County and the City of Bushnell, or alternatively, adopt a plan for the provision of potable water and sanitary sewer that will not promote urban sprawl.

2. Environmental Suitability: Support the amendments with data and analysis demonstrating that the amendment parcel is suitable for the proposed land uses based on the environmental characteristics of the site, and that the amendment ensures the adequate protection of wetlands, surface water, and groundwater consistent with the requirements of 9J-5.06(3)(b)1., F.A.C. Also, revise the amendment to direct incompatible land uses away from wetlands and floodplains on the subject site and ensure that the density/intensity of land uses allowed adequately protects the quality of surface water and groundwater.

3. Transportation Facilities: Revise the transportation analysis to be based on the maximum development potential or a site specific policy that limits development potential to the amount used in the analysis. If the intended use of the subject site is a 400 unit RV Park, a Future Land Use Category that is more appropriate for the intended use should be selected or specifically limit the site through a site specific policy to the 400 unit RV Park. The analysis must identify: (a) a traffic study area or area of influence, (b) the impacted roadway links (State and Local/County Roads) within the study area, (c) the adopted peak hour level of service standard for each roadway, (d) background traffic (existing and projected) over the short term and long term time frames based on the best available traffic count, (f) trip generation and distribution from the amendment, including the assumptions use, and (g) identification of failing links with and without the amendment. The amendment must demonstrate that the City has adequate transportation capacity to serve the increased development potential created by the proposed FLUM change. If any improvement will be needed in the next five years in order to achieve and maintain the adopted level of service standards, the five-year schedule of capital improvements must be amended to include the improvement. The schedule must also be financially feasible as

defined in Section 163.3164(32), F.S., and rely on committed funding for years one through three and committed or planned funding for years four and five.

A. Inconsistent Provisions: Adopted Ordinance Numbers 546 is not consistent with the State Comprehensive Plan including the following goals and policies set forth in Section 187.201, F.S.:

Goal (15)(a). Land Use, Policies (15)(b)1 and (15)(b)2

Goal (17)(a). Public Facilities, Policy (17)(b)7

Goal (19)(a). Transportation, Policies (19)(b)3, (19)(b)9, and (19)(b)13

Goal (25)(a). Plan Implementation, Policy (25)(b)7

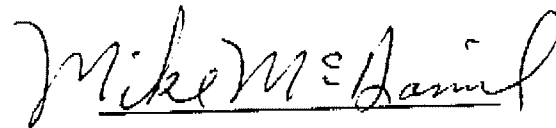
B. Recommended remedial action. These inconsistencies may be remedied by revising the Amendment as described earlier in this statement of intent.

CONCLUSIONS

1. The Amendment is not consistent with the State Comprehensive Plan.
2. The Amendment is not consistent with Chapter 9J-5, *Florida Administrative Code*.
3. The Amendment is not consistent with the requirements of Chapter 163, Part II, *Florida Statutes*.
4. The Amendment is not "in compliance," as defined in Section 163.3184(1)(b) *Florida Statutes*.

5. In order to bring the Comprehensive Plan amendment into compliance, the City may complete the recommended remedial actions described above or adopt other remedial actions that eliminate the inconsistencies.

Executed this 8th day of April 2009, at Tallahassee, Florida.



Mike McDaniel, Chief
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399

EXHIBIT B
DEPARTMENT OF COMMUNITY AFFAIRS
versus
SUMTER COUNTY

Settlement to Resolve Not-In-Compliance Finding:
Docket No. 09-1-NOI-6001-(A)-(1)-(N)

Settlement Condition: Sumter County agrees to undertake the remedial actions indicated in this Exhibit B in order to resolve the Department of Community Affairs' Not-In-Compliance finding for Amendment 09-1 (**Docket No. 09-1-NOI-6001-(A)-(1)-(N)**), involving changes to the Comprehensive Plan Future Land Use Map adopted by Ordinance Nos.2009-02, on February 10, 2009, as part of the Sumter County 09-1 package:

Compliance Issues and County Action: The adopted amendment pertained to changes in land use on a 132.19 –acre site from Agriculture to Mixed Use with the intention to develop an RV park on the site. Compliance issues were raised because under the mixed use category a maximum of 455 dwelling units and 208,173 square feet of commercial uses would be allowed, and there was no policy adopted into the plan to limit development of the site to an RV park. The compliance issues raised to the amendment pertained to: 1) urban sprawl, 2) suitability, and 3) inadequate data and analysis regarding the impact of the amendment on transportation facilities.

Remedial Actions to address compliance issues:

The County has addressed the compliance issues raised by agreeing to include in the comprehensive plan a site-specific policy limiting development on the site to: 1) an RV park, 2) ensure that the extension of sewer from Bushnell to the site does not lead to urban sprawl and 3) ensure that development does not occur in the environmentally sensitive areas of the site.

Within the next sixty (60) days of the execution of this Settlement Agreement the County will adopt a remedial amendment incorporating the following site-specific policies into the Future Land Use Element of the comprehensive plan:

Policy 7.1.17.3: The project identified on the Future Land Use Map as 04-5 and known as the Southern Villas RV Resort shall adhere to following standards:

- a. The Southern Villas project is a Recreational Vehicle Park ("Project") that will be developed as a RV Planned Unit Development (RVPUD) by 674 Property, LLC ("Owner"). The project shall utilize CR 673 as an access point with additional emergency access provided from CR 674 and CR 654A. The project shall provide the necessary screening and buffering to ensure compatibility between adjacent land uses. The screening and buffering shall be determined through the RVPUD zoning process.
- b. The maximum number of RV spaces shall be 400 and shall be limited to Class "A" motor homes and motorcoaches as defined by Section 320.01, Florida Statutes, and the Sumter County Land Development Code. Occupancy of RV units shall be restricted to persons

fifty (50) years of age or older. Any accessory uses on individual lots shall be set forth in the RVPUD zoning, including any nonresidential structures.

- c. No publicly dedicated roadways will be constructed within the property and the County shall have no obligation for the improvement or maintenance of private roads and road rights-of-way within the Property. The County has no obligation or responsibility for the improvement or maintenance of such roadways and shall look solely to the Owner or the Homeowner's Association formed for that purpose for improving and maintaining the roads and rights-of way.
- d. The Property shall be served by central sanitary sewer service from the City of Bushnell. This will be accomplished through the installation of a sanitary sewer force main which is limited in size diameter, not greater than 6 inches, to provide the minimum flow required to transfer waste water to the City of Bushnell's sanitary sewer system. The County agrees that no new development will be authorized to connect to this line for a distance of 12,300 feet or 2.33 miles, running north along U.S Highway 301 from the intersection of County Road 673 and U.S. 301. Also, pursuant to the agreement entered into between the City of Bushnell and the developer on September 10, 2009 and amended on September 25, 2009, the City of Bushnell agrees that no new development will be authorized to connect to this line for a distance of 12,300 feet or 2.33 miles, running north along U.S Highway 301 from the intersection of County Road 673 and U.S. 301.
- e. The extension of sewer lines shall be constructed by the Owner, at the Owner's expense, to ensure that the City of Bushnell can provide sufficient sanitary sewer capacity for the total approved number of RV units (400 units) and nonresidential square footage. Prior to any development approvals for the Project, the existence of sufficient sewer service capacity shall be confirmed by an executed Developer Agreement between the Owner and the City of Bushnell for the provision of the required sanitary sewer services. The County shall coordinate with the City of Bushnell to adopt the required sanitary sewer improvements into the first 3-years of the 5-year capital improvement plan of the City of Bushnell's Comprehensive Plan at the City's next regularly scheduled update of its capital improvements plan.
- f. The Owner shall install, at the owner's expense, an on-site potable water system, including a well, pump, and treatment system, which are sized to provide the minimum capacity required to serve the Project, including the capacity to meet minimum fire flow requirements.
- g. Surface water and storm water management shall be engineered and designed to serve the entire Project pursuant to permits issued by the Southwest Florida Water Management District and as required by the Sumter County Land Development Code. The County shall have no obligation for the improvements or maintenance of such surface water and storm water management system. Each owner of any portion of the Project shall look solely to the Owner or a Homeowner's Association formed for that purpose for such improvements and maintenance.
- h. No development shall occur in the 100-year floodplain or wetlands. The owner shall place the undeveloped portion of the Property that is identified as open space, the 100

year flood plain, and delineated wetlands in a conservation easement, in a manner and form allowed by state law. Such easement shall be recorded in the Public Records of Sumter County, Florida, with the understanding that it is binding on the Owner's successors and assigns.

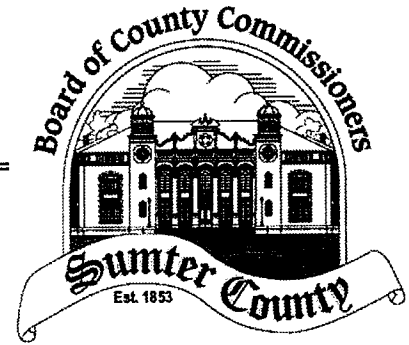
- i. The Owner shall create a Homeowner's Association (the "Association"). Each owner within the Property shall be a member of the Association. The Association shall have the authority and responsibility to maintain, repair, and replace roads and rights-of-way; and, the surface water and storm water management system referenced in Policies 7.1.17.3c and f, above, as well as, all tracts, water retention areas and other common areas.
 - j. All site improvements, structures and signs shall be permitted by Sumter County pursuant to the County's Land Development Code and normal permitting requirements.
- B. The County shall include with the remedial amendment the agreement entered into between the City of Bushnell and the developer for the provision of sewer as supporting data and analysis.

Board of County Commissioners

Division of Planning & Development

Planning Services

910 N. Main Street, Suite 301 • Bushnell, FL 33513 • Phone (352) 793-0270 • FAX: (352) 793-0274
Website: <http://sumtercountyfl.gov/planning>



August 25, 2009

Mr. Mike McDaniel
Mr. Bernard Piawah
Ms. Mary Thomas
Florida Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399

Re: Amended Response to Florida Department of Community Affairs Statement of Intent to Find Comprehensive Plan Amendments Not In Compliance – Sumter County DCA #09-1: CP-A2008-0001

Mr. McDaniel, Mr. Piawah, and Ms. Thomas:

This letter and the related attachments are in response to our meeting with Mr. McDaniel and Mr. Piawah on August 14, 2009. Enclosed is an amended response, prepared in cooperation with the applicant 674 Properties, LLC, to the Department's Statement of Intent related to DCA#09-1 (CP-A2008-0001) to amend the future land use from Agriculture to Mixed Use for an RV park located at the northwest corner of U.S. 301 and CR 673.

The amended response includes the use of an on-site potable water facility and the extension of a sanitary sewer force main from the City of Bushnell sized only to serve the proposed RV park and commitments to not allow any new development to connect to this sanitary sewer force main within 2.33 miles to the north of the intersection of U.S. 301 and CR 673. The proposed Future Land Use Element policy is revised to reflect this arrangement for the provision of potable water and sanitary sewer.

I believe the amended response and policy meets the Department's expectation that this amendment would only allow for an RV park and that the provision of potable water and sanitary sewer services would only serve the proposed RV park and not result in promoting urban sprawl.

Bradley T. Cornelius, AICP
Planning Manager
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County Administrator
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Chairman
(352) 793-0200
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Randy Mask, Dist 5
2nd Vice Chairman
Office: (352) 793-0200
Home: (352) 793-3930
910 N. Main Street
Bushnell, FL 33513

I look forward to your review on our amended response and reaching a mutually acceptable settlement to this issue in a timely manner. Please contact me if you require any additional information or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'BTC', with a stylized flourish at the end.

Bradley T. Cornelius, AICP
Planning Manager

Copy: Bradley Arnold, County Administrator
Derrill McAteer, County Attorney (Hogan Law Firm)
Merle Bishop, Kimley-Horn (applicant representative)

AMENDED RESPONSE TO THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS
STATEMENT OF INTENT TO FIND
COMPREHENSIVE PLAN AMENDMENTS
NOT IN COMPLIANCE
August 25, 2009

IN RE: SUMTER COUNTY

COMPREHENSIVE PLAN AMENDMENT 09-1

AMENDING THE FUTURE LAND USE MAP AND THE FUTURE LAND USE ELEMENT
ADOPTED BY ORDINANCE NO. 2009-02 ON FEBRUARY 10, 2009.

I. CONSISTENCY WITH CHAPTER 163, F.S. AND RULE 9J-5, F.A.C.

A. Inconsistent Provisions: The inconsistent provisions of the amendments under this subject heading area as follows:

1. Urban Sprawl: The amendment is not supported by appropriate data and analysis demonstrating that the development potential allowed by the amendment is needed to accommodate the projected population within the planning timeframe of the County's Comprehensive Plan which is 2010. The needs analysis submitted with the amendment is based on a 400 unit Recreational Vehicle (RV) Park, yet the comprehensive plan amendment does not include a policy limiting the development of this site to the 400 RV units. The amendment changes land currently designated Agricultural to Mixed Use which would allow development up to 455 residential units and over 200,000 square feet of non-residential space in the area that has significant environmental constraints and a considerable distance from existing urban centers. The subject site is located approximately three miles from the southeastern part of the City of Bushnell and has no access to central water and sewer facilities, which makes it internally inconsistent with Future Land Use Policy 7.1.1.2 of the Sumter County Comprehensive Plan. Furthermore, the amendment states that the site will obtain potable water and wastewater services from the City of Bushnell, but the City's Comprehensive Plan does not currently include a financial feasible plan for the extension of services to this part of unincorporated Sumter County. The amendment is not supported by data and analysis demonstrating how the location of an intensive urban land use designation in a rural, agricultural area and the extension of urban services approximately three miles from Bushnell to this area will result in a future growth pattern that discourages urban sprawl and ensures a compact urban form of development. Without a comprehensive planning approach in place, the extension of urban services to such a rural area of the county would increase development pressure on the adjacent rural areas currently designated Agricultural and lead to

premature conversion of agricultural areas to urban use. Therefore, the proposed amendment displays the following indicators of urban sprawl pursuant to Rule 9J-5.006(5)(g), F.A.C.

- Allows for substantial areas to develop as single-use development or uses in excess of demonstrated need.
- Designates urban development in rural areas at substantial distances from existing urban areas while leaping over undeveloped lands that are suitable for development.
- Promotes premature conversion of rural land to urban uses and fails to protect environmentally sensitive areas.
- Fails to protect adjacent agriculture activities.
- Fails to maximize use of existing facilities and services.
- Fails to maximize use of future public facilities and services.
- Allows for land use patterns which disproportionately increase the cost of providing and maintaining facilities and services.
- Fails to provide a clear separation between rural and urban uses.
- Discourages infill development or the redevelopment of existing neighborhoods and communities.

In addition, the amendment is internally inconsistent with the following Future Land Use Policies: 7.1.1.2, 7.1.1.4, 7.1.1.5, 7.1.2.1, 7.1.1.2 and 7.1.6.1 regarding the discouragement of urban sprawl.

Authority: Section 163.3177(2), (6)(a) and (8), F.S. and Rules 9J-5.005(2)(a), (b), (c), (d) & (e) and (5), 9J-5.005(2)(c) and (3)(b), 9J-5.006(5)(g) – (k), 9J-5.011(2)(b)3, F.A.C.

Applicant's Response:

It is the intent of the Sumter County Board of County Commissioners to only allow the development of a Recreational Vehicle (RV) Park on this property. As such, the County is including a policy in the Sumter County Comprehensive Plan's Future Land Use Element, under Objective 7.1.17 (Overlay Zones), Policy 7.1.17.3 which will allow only a RV park with a maximum of 400 spaces for RV units.

The development of a RV park in Sumter County is an allowable use within the Mixed Use (MU) Future Land Use District (Sumter County Comprehensive Plan Policy 7.1.1.2). The MU Future Land Use District is a Future Land Use category which would be allowed within the rural development area of Sumter County, with the approval of an

amendment to the Sumter County Comprehensive Plan. Furthermore Therefore, the development of a RV park is can be authorized outside of the Urban Development Area within the Mixed Use land use designation (Sumter County Land Development Code, Section 13-332(a)(8)(b)(3)(d)).

Development of a RV park outside of the Urban Development Area requires the connection to central water and sewer service. Since the property is located within the City of Bushnell's water and sewer service area boundary, the City of Bushnell is considered the appropriate service provider. In order to provide the required central potable water and sanitary sewer service to the proposed development, and prevent the ability for surrounding property, which has a Future Land Use designation of Agriculture, to request a Comprehensive Plan map amendment to allow a higher density and intensity of uses, the applicant proposes the following:

- 1. A well and potable water treatment system, which are sized to provide adequate capacity to only the proposed RV development, including fire flow requirements, will be constructed on-site.*
- 2. The applicant will install a sanitary sewer force main and lift station from the project site to the City of Bushnell. This force main and lift station will be sized to limit capacity to the amount necessary to adequately serve only the proposed RV development. The limited design capacity of the proposed force main will preclude the ability of any new development proposed between the proposed RV development and the City of Bushnell to utilize proximity to the force main as justification in requesting a Comprehensive Plan Amendment from Agriculture to a Future Land Use category which would authorize higher residential density and/or land use intensity.*

The extension of a sanitary sewer lines to the project will be along U. S. Highway 301, south of the City of Bushnell. The total distance of the proposed force main from the connection point with the City of Bushnell sanitary sewer system at Central Avenue to the proposed project is approximately 19,532 feet or 3.7 miles. However, the current City Limits for Bushnell extend south of Central Avenue along U. S. 301 for approximately 7,300 feet or 1.38 miles. The planned extension of a sanitary sewer force main beyond the point where the current Bushnell City Limits are adjacent to U.S. 301 right-of-way, is approximately 12,300 feet or 2.33 miles. The land located on the east and west side of U.S. Highway 301 between the City Limits of Bushnell and the proposed RV development currently has a Future Land Use designation of Agriculture. The ability of the land located between Bushnell and the project to change from Agriculture to Future Land Use designations permitting higher density and/or intensity of uses is very limited. A major

railroad line is located adjacent to the east side of the right-of-way of U.S. Highway 301. The owner of this railroad, CSX, will not permit a rail crossing unless the applicant for such a crossing is able to secure the closure of three existing crossings. This requirement will prevent driveway connections from U.S. Highway 301 to property located on the east side of the highway and the railroad. Additionally, the majority of the property located on the west side of U.S. Highway 301 was subdivided years ago, prior to the adoption of the Sumter County Comprehensive Plan, into five acre tracts. The majority of these tracts have been developed with single family homes. The ability to develop these five acre tracts or combine parcels to form a larger tract sufficient to accommodate a large development plan is very unlikely.

The location of the RV park at the intersection of US 301, an arterial highway, and CR 673, a collector road, is a desirable location for a RV resort which is resource based. This location for a RV park is also desirable because of the fact that the project's residents are transient as oppose to a permanent population. CR 673 has direct access to Interstate 75 and will help to reduce the amount of recreational vehicle traffic in Bushnell. Furthermore, there are two existing RV parks currently located on CR 673.

The City of Bushnell will amend the City's Capital Improvements Plan (CIP) within the City's Comprehensive Plan to include a financial feasible plan for the extension of sanitary sewer service to the property indentified in the Plan Amendment. The basis for the financially feasible plan is a Development Agreement between the City of Bushnell and the developer for sanitary sewer service. The Development Agreement is signed by the owner/applicant and is scheduled for consideration by thee City of Bushnell on September 9, 2009.

By limiting the use of the site to a RV park, development of the property for RV spaces will displace approximately six (6) acres at the intersection of US 301 and CR 673, which are vested for commercial uses. This property, which is located on the north side of CR 673, was formerly owned by Michael and Yvonne Wilder and is included in the Comprehensive Plan Amendment (CPA 09-1) and planned to be developed for the RV park. A Development Order was approved by Sumter County for this property on June 28, 1994. This zoning action was determined to be consistent with the Sumter County Comprehensive Plan which permitted C-1 uses in residential and agriculture areas. The property would be allowed to develop for "light commercial uses" under the current commercial, CL, zoning category of the Sumter County Land Development Regulations. According to the Sumter County Land Development regulations, the CL zoning designation allows uses such as hotels, motels, convenience retail stores, supermarkets,

restaurants (including drive-through), department stores, pawn shops, banks, general offices, hardware store, new motor vehicle parts and equipment sales, and electronic motor and gas engine repair. The floor area ratio for this property, developed under the CL land use district, is 0.3. This would allow development of approximately 78,000 square feet of non-residential uses.

The following is a response to the specific indicators of urban sprawl, Rule 9J-5.006(5)(g), F.A.C.

- Allows for substantial areas to develop as single-use development or uses in excess of demonstrated need.

The adoption of a site specific policy limiting the use to a RV park within the Mixed Use Future Land Use category does provide for temporary, transient housing which will meet the need for seasonal population growth through the year 2020. The detailed needs analysis was presented in the response to the ORC report. This analysis concluded that the proposed RV park will meet the housing needs for approximately 25.9% of the anticipated growth in seasonal population over the next 10 years. The Sumter County Land Development Code requires the project to include limited internal commercial use in addition to the residential use.

- Designates urban development in rural areas at substantial distances from existing urban areas while leaping over undeveloped lands that are suitable for development.

The proposed use is located approximately 2.33 miles south of the current Bushnell City Limits along U.S. Highway 301. The property between the property and the City of Bushnell currently has a Future Land Use designation of Agriculture. The future development potential for this property is limited due to the presence of an active railroad line which runs parallel to the eastern right-of-way of U.S. Highway 301 and the current, rural development pattern of property on the west side of U.S. Highway 301. CSX Rail Lines will not grant driveway access across their railroad unless the applicant/property owner can secure the closure of three existing railroad crossings. This presents a real and serious impediment for access to property east of US 301. Property west of US 301 is already developed into five acre tracts, which are in separate ownerships with single family home built on them. This area is known as "Sumter Gardens" and is a platted subdivision.

- Promotes premature conversion of rural land to urban uses and fails to protect environmentally sensitive areas.

The amendment will not promote the premature conversion of rural land in the area due to the limitation placed on the property for a resource based RV park and the limitation of utility service which will provide service to meet only the capacity needs of the RV park. Environmental sensitive areas have been identified through a detailed flood study and wetland areas will be protected. Furthermore, the Sumter County Land Development Code requires the at least 50% of the property be set-aside for open space.

- Fails to protect adjacent agriculture activities.

The adjacent properties are rural home-sites with limited use as "family farms." The proposed RV park must be approved by the Sumter County Board of County Commissioners as a Planned Unit Development. As such, the site plan will include buffers and permanent open space to adequately buffer any adjacent properties. There are no large agriculture operations in proximity to the property which will be impacted or converted to non-agriculture uses.

- Fails to maximize use of existing facilities and services.

The proposed use is located at the intersection of an arterial roadway (U.S. Highway 301) and a collector road (C.R. 673). No additional transportation improvements will be necessary to meet the transportation needs of the proposed development. The development will have limited demand for potable water and sanitary sewer service which will be provided by an "on-site" well and water treatment plant system, and a sanitary sewer force main, which will be limited in size to provide the minimum capacity required to transfer waste water from the development to the existing waste water treatment facility in Bushnell. The proposed use will provide on-site recreation amenities and will not result in negative impacts to the Sumter County recreation facilities and services.

- Fails to maximize use of future public facilities and services.

The use of an on-site well will provide the future needs for the residents of the proposed RV park, therefore, there will be no requirements for the future expansion of capacity for existing water treatment facilities. The existing waste water treatment facility within the City of Bushnell does have adequate capacity to treat the effluent generated by the proposed development. Therefore, the demand for potable water and sanitary sewer service does not impact the plans for future expansion plans of these public facilities.

The City of Bushnell will amend the City's CIP at the next scheduled update amendment to reflect the addition of the force main and any ancillary capital project associated with the expanded service.

- Allows for land use patterns which disproportionately increase the cost of providing and maintaining facilities and services.

The proposed development will not result in the disproportionate increase in the cost of providing and maintaining facilities and services. Due to the limitation of the use of the property for a RV park and limited density for seasonal residents, the development will not place an increased demand on public facilities and services. The development includes the installation of an on-site potable water system, a sanitary sewer force main with limited capacity to service the project, on-site recreation facilities, there will be no impacts to school facilities, fire and EMS service is currently provided for the existing development south of the City of Bushnell along US 301, the development will include a storm water drainage system which will be privately maintained and not impact existing public facilities.

- Fails to provide a clear separation between rural and urban uses.

The proposed use is for a resource based RV park and will include the provision of a minimum of 50% of the site in open space. This will be used to provide significant separation between the proposed development and adjacent rural areas. Additionally, the site plan will provide buffer areas along the property boundary to mitigate any incompatibility with adjacent properties. The property is located in an area with mixed uses, including existing RV developments off of County Road 673 and an existing mining operation.

- Discourages infill development or the redevelopment of existing neighborhoods and communities.

The proposed use of a RV park is not an appropriate "in-fill use" which could be developed within an existing urban land use pattern. The nature of the use is to provide sites for seasonal residents to live in a more natural setting than would be provided as an in-fill development, surrounded by existing urban development. The use will be limited to a RV park which will not negatively impact the need for commercial, industrial or permanent residential use, which would be appropriate in-fill uses. Additionally, the use of an RV park does not displace permanent housing needs which could occur through the redevelopment of existing neighborhoods.

2. Environmental Suitability: The data and analysis provided do not demonstrate that the site is suitable for the development allowed by the amendment based on the environmental characteristics of the amendment site. A substantial part of the subject site is located within the 100 year floodplain, and according to the SWFWMD the property was subject to extensive flooding during the 2004 hurricane season. A RV park development in this area would lead to substantial increases in impervious surface and would increase the flooding potential on the subject site. Therefore, the County has not demonstrated that the subject site is suitable for the increased development potential that would be allowed by the proposed amendment.

In addition, the amendment is internally inconsistent with the following Conservation Element objectives and policies of the Sumter County Comprehensive Plan: Objective 3.1.2 and Policy 3.1.2.4 regarding development within the 100 year floodplain.

Authority: Sections 163.3177(6)(a, c, and d); and, 163.3177(2, 8, and 10), F.S., and Rules 9J-5.005(2 and 5); 9J-5.006(2)(b), (3)(b)1, and (3)(c)6; 9J-5.011(2)(b)5 and (3)(c)4; 9J-5.013(2)(c)6 and (3), F.A.C.

Applicant's Response:

The effective FEMA-issued Flood Insurance Rate Map (FIRM) for the subject area indicates Zone A flood zones over portions of the property. Zone A represents an approximate flood zone where no Base Flood Elevation has been established. The applicant has conducted a detailed site-specific flood study to establish Base Flood Elevations and is currently in the process of preparing a submittal to FEMA for a Letter of Map Revision (LOMR). The current results of the flood study indicate significant reductions to the onsite flood zones. Development will focus on lands outside of the flood zone; however, some fringe impacts to the 100 flood plain are likely. All flood plain impacts will be adequately compensated on-site and be represented in drainage calculations certified by a Florida Registered Professional Engineer.

Flooding at this site during the 2004 hurricane season would have likely been concentrated at the northern portion of the property. The lowest elevations of the existing site are found in this area. The proposed site plan limits development activities in this area. Improvements are anticipated to include recreational facilities such as trails and open space. Occasional flooding would not be detrimental to the anticipated uses in this location. Flood plain compensation areas will be designed in this area to offset any proposed impacts to the 100 year flood plain (as established in the flood study) within the subject drainage basin.

Storm water runoff from the impervious areas created on the subject property will be conveyed to the onsite storm water management areas. Such areas will be designed to meet the requirements of the Southwest Florida Water Management District and Sumter County as they pertain to water quality and discharge quantity.

Given that the current results of the detailed site-specific flood study indicate a significantly reduced on-site flood zone, in addition to the fact that the project will be designed in accordance with all applicable local, state, and federal regulations, the subject site is suitable for the increased development potential that would be allowed by the proposed amendment. Additionally, based on the flood study, the property will be able to be developed for the intended use and comply with Objective 3.1.2 and Policy 3.1.2.4 of the Sumter County Comprehensive Plan.

3. Transportation: The transportation analysis submitted with CPA-2008-0001 is not based on the maximum development potential of the FLUM change. The transportation analysis was based on 450 occupied dwelling (mobile home) units, and not the maximum development potential allowed by the mixed land use category. The maximum development potential of this site under the mixed land use category would allow 455 dwelling units and over 200,000 square feet of commercial development. The proposed amendment does not provide any data and analysis on the impact of the commercial development allowed by the proposed amendment would have on the surrounding roadways. Furthermore, the transportation analysis uses the ITE land use code 240 for mobile home parks. The comprehensive plan amendment does not limit the development to 450 RV units or that those units will be mobile home units and the use of ITE Code 240 is inappropriate to analyze the impacts of the mixed use land use category. Therefore, the amendment is not based on a professionally acceptable transportation analysis demonstrating the impacts the amendment will have on the surrounding roadways.

[Sections 163.3164(32); 163.3177(2), (3), (6)(a) & (j) and (8), F.S.; Rules 9J-5.005(2) and (5); 9J-5.006(2)(a), (3)(b)1 and (3)(c)3; 9J-5.016(1)(a) and (c), (2)(b), (c), (e) & (f), and 9J-5.019(3), F.A.C.]

Applicant's Response:

Sumter County will adopt a policy in its Comprehensive Plan which will limit the use and density of the property to a maximum 400 space RV development. Therefore, the uses and the number of units reflected in the initial traffic study will be appropriate for the amendment. The methodology used in performing the traffic analysis, including (a) a traffic study area/area of influence, (b) impacted roadway links, (c) adopted peak hour

level of service standard for each roadway, (d) background traffic, and (f) trip generation and distribution from the amendment site, were approved by the Lake/Sumter Metropolitan Planning Organization. The Lake/Sumter MPO Senior Transportation Planner, Thomas Burke, P.E., AICP, stated on May 2, 2008, "I have looked through your revised traffic methodology for the Bushnell 674 CPA. It looks to be consistent with the Sumter guidelines and addresses my comments...your methodology looks good. It's clear that we would expect you to follow the Sumter guidelines and I think you have acknowledged as such, so we're good!"

The ITE land use code 240 for mobile home parks was used to calculate the estimated trip generation from the project because there is not a code for a recreational vehicle park. The 240 land use code is the closest to a recreational vehicle park development. Another option would be to use land use code 251 for "Senior Adult Housing – Detached" since the RV park will be restricted to residents over 50 years in age. The average P.M. Peak Hour of Trip Generation for land use code 251 is 0.35 trips per unit. This generation rate is considerably less than the average of 0.57 trips per unit for a mobile home unit. Additionally, the initial traffic study prepared for this Comprehensive Plan Amendment, which is dated May 2008, was based on a maximum of 450 RV spaces. The approved Memorandum of Agreement between the County and the Applicant, and Policy 7.1.17.3 (see response to item number one (1) above) which will be adopted to limit the use of the property, requires a maximum of 400 RV spaces. Based on Land Use Code 240 (Mobile Home Park), the total estimated trips in the P.M. Peak Hour will be reduced by 28 trips. Therefore, with a limit of the use of the property to 400 RV units, the traffic study prepared for this property produces a higher estimate of the trips than that expected to be generated by the development.

Policy 7.1.17.3 The project identified on the Future Land Use Map as 04-5 and known as the Southern Villas RV Resort shall adhere to following standards:

- a. The Southern Villas project is a Recreational Vehicle Park ("Project") that will be developed as a RV Planned Unit Development (RVPUD) by 674 Property, LLC ("Owner"). The project shall utilize CR 673 as an access point with additional emergency access provided from CR 374 and CR 454A. The project shall provide the necessary screening and buffering to ensure compatibility between adjacent land uses. The screening and buffering shall be determined through the RVPUD zoning process.
- b. The maximum number of RV spaces shall be 400 and shall be limited to Class "A" motor homes and motorcoaches as defined by Section 320.01, Florida Statutes, and the Sumter County Land Development Code. Occupancy of RV units shall be restricted to persons fifty (50) years of age or older. Any accessory uses on individual lots shall be set forth in the RVPUD zoning, including any nonresidential structures.
- c. No publicly dedicated roadways will be constructed within the property and the County shall have no obligation for the improvement or maintenance of private roads and road rights-of-way within the Property. The County has no obligation or responsibility for the improvement or maintenance of such roadways and shall look solely to the Owner or the Homeowner's Association formed for that purpose for improving and maintaining the roads and rights-of way.
- d. The Property shall be served by central sanitary sewer service from the City of Bushnell. This will be accomplished through the installation of a sanitary sewer force main which is limited in size diameter to provide the minimum flow required to transfer waste water to the City of Bushnell's sanitary sewer system. The County agrees that no new development will be authorized to connect to this line for a distance of 12,300 feet or 2.33 miles, running north along U.S Highway 301 from the intersection of County Road 673 and U.S. 301.
- e. The extension of sewer lines shall done by the Owner, at the Owner's expense, to ensure that the City of Bushnell can provide sufficient sanitary sewer capacity for the total approved number of RV units (400 units) and nonresidential square footage. Prior to any development approvals for the Project, the existence of sufficient sewer service capacity shall be confirmed by an executed Developer Agreement between the Owner and the City of Bushnell for the provision of the required sanitary sewer services, and adoption of the required sanitary sewer improvements into the first 3-years of the 5-year capital improvement plan of the City of Bushnell's Comprehensive Plan.
- f. The Owner shall install, at the owner's expense, an on-site potable water system, including a well, pump, and treatment system, which are sized to provide the minimum capacity required to serve the Project, including the capacity to meet minimum fire flow requirements.

- g. Surface water and storm water management shall be engineered and designed to serve the entire Project pursuant to permits issued by the Southwest Florida Water Management District and as required by the Sumter County Land Development Code. The County shall have no obligation for the improvements or maintenance of such surface water and storm water management system. Each owner of any portion of the Project shall look solely to the Owner or a Homeowner's Association formed for that purpose for such improvements and maintenance.
- h. The owner shall place the undeveloped portion of the Property that is identified as open space, the 100 year flood plain, and delineated wetlands in a conservation easement, in a manner and form allowed by state law. Such easement shall be recorded in the Public Records of Sumter County, Florida, with the understanding that it is binding on the Owner's successors and assigns.
- i. The Owner shall create a Homeowner's Association (the "Association"). Each owner within the Property shall be a member of the Association. The Association shall have the authority and responsibility to maintain, repair, and replace roads and rights-of-way; and, the surface water and storm water management system referenced in Policies 7.1.17.3c and f, above, as well as, all tracts, water retention areas and other common areas.
- j. All site improvements, structures and signs shall be permitted by Sumter County pursuant to the County's Land Development Code and normal permitting requirements.

Appendix A: Overlay Projects Indicated on the Future Land Use Map

04-5: Southern Villas RV Resort

Property Owner: 674 Property, LLC

Underlying land use: Mixed Use

Dwelling Units: Maximum of 400 Class "A" motorhome or motorcoach spaces

Commercial Square Footage: 4,000 square feet to be incorporated into a 10,000 square foot clubhouse building.

Required Open Space: minimum of 63.49 acres (50% of 126.97 acres)

Project Acreage: 126.79 acres

**AMENDMENT TO
DEVELOPER'S AGREEMENT BETWEEN THE CITY OF BUSHNELL, FLORIDA
AND MOFCO GROUP, INC.**

This amendment is made this 25th day of September, 2009, to that certain agreement dated 10th day of September, 2009, ("Agreement") made and entered into by and between the City of Bushnell, Florida, a Florida municipal corporation (hereinafter called "City"), and , its successors or assigns (hereinafter called MOFCO GROUP, INC. or "Developer").

WITNESSETH:

WHEREAS, the parties entered into the Agreement described above wherein the City agreed to provide sewer services to Developer and Developer agreed to extend the City sewer system to the proposed development; and,

WHEREAS, in the process of obtaining county and state approval an issue has arisen as to whether new development could connect to the extended sewer line and an agreement has been reached with the county and the state to prohibit connections to a portion of the extended sewer line to prevent urban sprawl; and,

WHEREAS, the parties have agreed to amend the Agreement to included the approved limiting language;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings of City and Developer and other good and valuable considerations, these parties covenant and agree with each other as follows:

PART III of the Agreement is amended to add the following provision:

D. The City agrees that no new development will be authorized to connect to this line for a distance of 12,300 feet or 2.33 miles, running north along U.S. Highway 301 from the intersection of County Road 673 and U. S. 301.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year indicated below:

Signed, sealed and delivered in the presence of:

ATTEST:

N. Joy Coleman
N. Joy Coleman, City Clerk

CITY OF BUSHNELL
By: Joe P. Strickland, Jr.
Mayor Joe P. Strickland, Jr.
Date: 9-25-2009

[Signature]
Witness

Kelly Marcone
Witness

MOFCO GROUP, INC.

By: Dennis Moffitt, Pres.
Dennis Moffitt, Pres.

Title: PRES.

Date: 9-24-2009

The foregoing instrument was acknowledged before me this _____ day of _____, 2009, by Joe P. Strickland, Jr., Mayor of the City of Bushnell, who has produced as identification or is personally known to me.

State of _____

County of _____

Notary Public, State of Florida

Commission # _____ My Commission Expires: _____

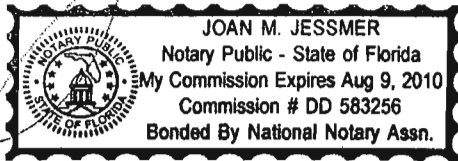
The foregoing instrument was acknowledged before me this 24 day of Sept, 2009, by Dennis Moffitt as President of MOFCO GROUP, INC., who has produced as identification or is personally known to me.

State of Florida

County of Sumter

[Signature]
Notary Public, State of Florida

Commission # _____ My Commission Expires: _____



Full Executed
2nd Version

**DEVELOPER'S AGREEMENT BETWEEN THE CITY OF BUSHNELL, FLORIDA
AND MOFCO GROUP, INC.**

This agreement, effective this 10th day of September, 2009, made and entered into by and between the City of Bushnell, Florida, a Florida municipal corporation (hereinafter called "City"), and , its successors or assigns (hereinafter called MOFCO GROUP, INC. or "Developer").

WITNESSETH:

WHEREAS, City is a regional water and wastewater provider; and,

WHEREAS, Developer owns or has contract rights to acquire, in fee simple certain real property in Sumter County, Florida, as shown and described in Exhibit "A" attached hereto and made a part hereof (hereinafter the property); and,

WHEREAS, Developer desire's to procure wastewater service from the City for the Property described in Exhibit "A"; and,

WHEREAS, Developer's proposed development requires access to wastewater service in order to develop its property; and,

WHEREAS, the parties desire to enter into an agreement setting forth the mutual understandings and undertakings regarding the furnishing of wastewater services for the Property described in Exhibit "A" ; and,

WHEREAS, this Agreement and all stipulations and covenants made herein are acknowledged to be subject to the approval of every County, Regional, State and Federal regulatory agency having jurisdiction of the subject matter of this Agreement; and,

WHEREAS, the City has approved this Agreement and has authorized the proper City officials to execute this Agreement by motion passed at a regular City Council meeting on

Sept 9, 2009.

NOW, THEREFORE, in consideration of the mutual covenants and undertakings of City and Developer and other good and valuable considerations, these parties covenant and agree with each other as follows:

PART I. DEFINITIONS

A. The term "connection fee" shall be construed as defined in City of Bushnell ordinances and resolutions.

B. The term "Developer" shall refer to MOFCO GROUP, INC.

C. The term "Equivalent Residential Unit" as defined by City ordinance shall be referred to in this Agreement as "ERU" and shall be defined by Chapter 27: Utilities; Section 27-413 of the City of Bushnell Code.

D. The term "Property" or "Developer's Property" refers to the real property described in Exhibit "A", attached to and incorporated into this Agreement.

E. The term "Capacity Reservation Charge" shall be referred to as "CRC" and shall be as defined by City Ordinances and Resolutions.

PART II. DEVELOPER'S OBLIGATIONS

A. Wastewater utility facilities to serve the proposed development. This section concerns only wastewater lines and facilities that are constructed by Developer for service to the Developer's property and requires that:

1. Developer, at its expense and at no expense to the City, shall design, construct, and install all necessary wastewater collection lines and any necessary lift stations from the existing City system to the Property and over, through, under and across the Property in accordance with the plans, specifications and engineering data as required by Florida regulatory agencies and the City or its authorized representative; and said wastewater collection lines shall be installed and connected to City existing wastewater collection lines, all of which work shall be paid for by the Developer and conform to all material and workmanship standards and specifications of the City. Preliminary schematics and cost estimates attached as Exhibit "H".

2. All installations of all lines referred to herein shall be installed at Developer's expense and shall include, without limitation, all gravity flow mains, force mains, pump stations and lift stations and any other capital improvements required for the furnishing of service to and on the Property. At the time of submission of plans, specifications and engineering data by Developer to the City, the Developer shall pay to the City a Plan Review Fee established by resolution in effect at the time of payment. Said Plan Review Fee is to compensate City for City's expense in having said plans, specifications and engineering data reviewed. In the event the City requires a review of the final "as built" plans, there shall be an additional fee due at that time.

3. Developer shall, at his own expense, and at no expense to the City, retain the services of a registered professional engineer for the purposes of providing necessary inspection and supervision of the construction work to insure that construction is at all times in compliance with accepted engineering practices and in compliance with the approved plans and specifications. Developer shall notify City in writing of such appointment. A copy of each field report shall be submitted to the City. Should there be cause or reason for the Developer to engage the services of a registered engineer other than the design engineer for inspections, then Developer shall notify the City within five (5) days of such engagement.

4. Developer, its Project Engineer, and its Contractor shall arrange for and hold a pre-construction meeting or meetings with the City or its authorized representative. Notification

of said meeting shall be made in writing and received by all parties seventy-two (72) hours in advance of said meeting.

5. The work to be performed by Developer, as provided in this Agreement shall not commence until all plans and specifications covering the work to be performed are approved in writing by the City or its authorized representative.

6. During construction and at the time periodic inspections are required, the City or its authorized representative may be present and Developer's engineer shall be present to observe and witness tests for determination of conformance to approved plans and specifications. Copies of the approved test results shall be furnished to the City on successful completion of each test.

7. The work to be performed by Developer, pursuant to the provisions set forth herein, shall be in accordance with all requirements of the regulatory agencies which have jurisdiction over the subject matter of this Agreement as well as all applicable Federal and State Statutes, County and City's ordinances. The requirements of this paragraph shall govern, regardless of any errors or omissions in the approved plans or specifications.

8. Developer shall, at his own expense and at no expense to the City, furnish to the City five (5) complete sets of reproducible as-built drawings prepared by a Florida registered engineer who designed the wastewater collection systems. Developer shall furnish the as-built drawings in an electronic format agreed upon between both parties. As-built drawings shall be certified by the Developer's engineer and shall show all pertinent information as to all mains, services and appurtenances belonging to, and affecting the wastewater collection system and service lines as constructed in the field. As-built drawings shall also be certified by a Florida registered surveyor as to the actual location of all surface and subsurface features of these systems and easements and rights-of-way which are part of or adjacent to the Property and those needed to extend the City system from existing lines to the Property.

9. Developer shall also provide to the City information concerning the estimated costs of construction of the wastewater collection system by major system components, to be transferred to the City.

B. Easements to be provided to the City.

Developer shall provide the City with the following:

1. Twenty foot (20') easement along the roadway abutting the Property, such easements as approved by FDOT along US Highway 301, and an easement not more than 10 feet in width along roadways within the Property for the City's use for maintaining and extending the wastewater mainlines and transmission facilities.

C. Capacity Reservation Charges

1. Fees.

a. The capacity reservation charge (CRC) fees shall be calculated according to the rate schedule adopted by the City at the time the Developer executes this agreement, which rate shall apply to all CRC fees due from Developer to City during the term of this Agreement, and which are specified in Exhibit "C".

b. Developer must proceed with due diligence toward the final connection of all ERU's purchased, it being understood that the development will be constructed in phases and connected to the City system in phases as lots are sold.

c. Capacity reservation charge fees are not sold on speculation, and will be forfeited by development if significant progress is not attained as indicated in Exhibit "O". Significant progress shall be deemed to have occurred if the developer has completed construction as indicated in the attached Exhibit "O" within sixty (60) months of the Capacity Reservation Date as set forth in Exhibit "O". Capacity reservation charges are not refundable to the developer.

d. Developer has reserved (and City has set aside) capacity for wastewater by payment of capacity reservation charge fees as set forth in Exhibits "C" & "D".)

e. The following actions must precede the reservation of wastewater capacity:

i. The property must be in the City or a pending petition for voluntary annexation must be submitted (Exhibit "E");

ii. The Developer must execute the Request for Evaluation of Availability of Municipal Services Form.

iii. This Developer's Agreement and attachments must be fully executed.

f. Capacity is reserved for a particular location and pre-supposes that the City will be prepared to serve that capacity according to the agreed upon availability schedule at that location and no other.

2. Until Developer provides the City with payment for CRC's as set forth in Exhibits "C" and "D" and completes all other requirements of this agreement, no sewer service will be provided.

3. The City has determined at the time of execution of this agreement that the developer may purchase the number of wastewater ERU's as set forth in Exhibit "C". These capacities will be available at the times listed on Exhibit "D".

4. Developer may not transfer any wastewater capacity reserved without written permission from the City. Any such transfer will void the capacity reservation and the ERU's will revert back to the City and Developer will forfeit the right to any repayment of the connection fees paid for the capacity reservation.

D. Default.

1. Should Developer be in default of its payment obligation and this Agreement, it is agreed that the City shall have the right to exercise any of the following sanctions or penalties:

a. There shall be an interest penalty equal to the maximum rate allowed by Florida State Law on any payments due to City from Developer, which are not paid when due. The penalty, when applicable, shall accrue from the due date of payment as provided in this Agreement. The rate of interest shall be established by Resolution of the City.

b. The City shall be entitled to lien the Property and foreclose the lien in satisfaction of any payments due under this Agreement.

c. City shall be entitled to any other remedy at law and failure to exercise any remedy shall not constitute a waiver of said remedy.

E. Developer's responsibility after connection etc. to City's wastewater system.

After connection to City's wastewater systems:

1. Developer shall be responsible for wastewater systems, collections and transmitting wastewater to, but not including, the lift station.

2. The Developer shall provide the City with any easement necessary to access the City's maintained system.

PART III. CITY'S OBLIGATIONS

When, at no cost to City, (1) the wastewater collection systems have been satisfactorily installed, inspected, tested and approved and certified in writing by Developer's engineer, with the City, or its authorized representative; (2) Developer has satisfied the conditions of this Agreement; and (3) the City's authorized representative has inspected the constructed facilities, permitting documents and construction "as-built" drawings, and received five (5) sets of completed "as-built" drawings:

A. The City shall thereafter maintain the wastewater collection systems up to and within granted easements upon Developer's Property.

B. The City shall make available to the developer the ERU's purchased by developer at the times indicated in this Agreement.

C. The City shall provide all wastewater services to the Property.

PART IV. MUTUAL COVENANTS

It is mutually agreed by and between the parties that the preambles contained at the beginning of this Agreement are true and correct and in addition to them it is mutually covenanted and agreed as follows:

A. In addition to binding Developer, the provisions of this Agreement shall run with

the land and be binding upon and inure to the benefit of successors to title to the property after this Agreement has been recorded in the Public Records of Sumter County, Florida. However, any other assignment or transfer of Developer's rights and obligations is prohibited unless:

1. Assignment shall be done in writing in the same formality as this Agreement.
 2. City shall be a party of said assignment and shall not withhold approval of assignment unreasonably.
 3. Developer shall remain primarily liable to City for the terms and conditions of this Agreement unless assignment is made in compliance with this section. City agrees to execute a "Satisfaction by Assignment" for Developer if this Agreement is properly assigned.
- B. All prior Developer Agreements or Agreements pertaining to the supply of water and wastewater service affecting the Property are hereby cancelled and declared of no force and effect upon that Property which is the subject matter of this Agreement.
- C. City shall have the exclusive right to furnish wastewater collection service to consumers within the Property covered by this Agreement.
- D. City shall have the right to promulgate from time to time reasonable rules and regulations relating to the furnishing of wastewater collection service to consumers within the Property encompassed by this Agreement. Such rules and regulations may relate to, but are not limited to, rates, deposits, and connection charges and the right to discontinue services under certain conditions. The wastewater rates to be charged by City to said customers shall be the rates now or hereafter charged to other customers within the area of service of the Developer's Property. Developer hereby acknowledges and agrees that rates are subject to change at any time by City.
- E. City shall not be liable or responsible for maintenance or operation of any pipes, pipelines, valves, fixtures or equipment on any of the properties of the customers, consumers or users on Developer's Property other than the wastewater collection system within granted easements to City pursuant to this Agreement.
- F. Unless otherwise specified in this Agreement, this Agreement shall not be binding until fully executed, but once executed, it shall have a retroactive effect commencing from the date of the Council meeting at which it was approved.
- G. Developer shall keep:
- (a) All wastewater lines, service Lines, connections and necessary fixtures and equipment on the premises occupied by said consumer, and within the lateral lines from the main line to the lot occupied by the consumer in good order and condition; and
 - (b) A "Clean-out" for the wastewater lateral shall be at the Property or easement line. The "Clean-out" is for inspection purposes only.

H. Any temporary cessation or interruptions of the furnishing of wastewater service to the Property described herein at any time caused by Act of God, fires, strikes, casualties, accidents, power failures, necessary maintenance work, breakdowns, damaged equipment or mains, civil or military authority, riots or other cause beyond the control of the City shall not constitute a breach of the provisions contained herein nor impose liability upon the City by the Developer, his successors and assigns.

I. If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

J. This Agreement shall be recorded by the City among the Public Records of Sumter County, Florida, for the particular purpose of placing all Owners or occupants of properties in Developer's Property connected to or to be connected to said sewer system of City upon notice of each and every one of the provisions herein contained to the same extent and with the same force and effect as if said Owners and occupants had joined with the parties to this Agreement in the execution thereof; and the acquisition or occupancy of real Property in Developer's Property connected to or to be connected to the said sewer system of City shall be deemed conclusive evidence of the fact that the said Owners or occupants have consented to and accepted the Agreement herein contained and have become bound thereby.

K. It is mutually agreed that the City shall be held harmless from any and all liability for damages if City's obligations under this Agreement cannot be fulfilled as a result of any ruling or order by any other governmental or regulatory agency having jurisdiction over the subject matter hereof; and in such event, this Agreement shall be null and void and unenforceable by either party regarding that portion of the Developer's Property for which City cannot perform its obligations.

L. Until all of Developer's obligations under this agreement are met, the City may refuse service or terminate all service to Developer's property.

M. This contract and all obligations for payment by the Developer to the City is contingent upon the successful completion of all rezoning and land use approvals by Sumter County, final approval of an ordinance amendment of the Sumter County Code to allow for sales in RV PUDS, and the issuance of all required permits by local, state and federal regulatory agencies. Should the Developer not receive all such approvals by January 1, 2012, then this contract shall be null and void.

PART VI. NOTICE.

Whenever either party desires to give notice to the other, it shall be given by written notice, sent by prepaid, certified, United States, mail, with the return receipt requested, addressed to the party for whom it is intended, at the place specified as the place for giving notice, which shall remain until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for the giving of notice:

CITY OF BUSHNELL
Mayor Joe P. Strickland, Jr.
P.O. Box 115
Bushnell, FL 33513

FOR THE DEVELOPER
MOFCO GROUP, INC.

Notice so addressed and sent by prepaid certified mail, with return receipt requested, shall be deemed given when it shall have been so deposited in the United States mail.

PART VII. ADDITIONAL PROVISIONS

A. The parties agree that in the event it becomes necessary for any party to this Agreement to litigate in order to enforce its rights under the terms of this Agreement then, and in that event, the prevailing party shall be entitled to receive reasonable attorney's fees and the cost of such litigation including appellate litigation.

B. EXHIBITS.

The following exhibits are attached, as part of this Agreement and are incorporated into this Agreement:

EXHIBIT "A" - Legal description of Parcel(s)

EXHIBIT "B" - Easements

EXHIBIT "C" - Capacity Reservation Charges

EXHIBIT "D" - Capacity Availability Schedule and Payment Requirements

EXHIBIT "E" - Pending Annexation Petition

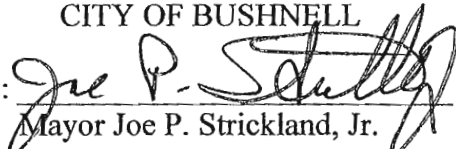
EXHIBIT "H" - Preliminary drawings and construction cost estimates for Sewer Utilities Extension.

EXHIBIT "O" - Schedule of Development Progress to maintain Capacity Reservation

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the day and year indicated below:

Signed, sealed and delivered in the presence of:

ATTEST:

CITY OF BUSHNELL
By: 
Mayor Joe P. Strickland, Jr.

N. Joy Coleman
N. Joy Coleman, City Clerk

Date: 9-9-2009

MOFCO GROUP, INC.

David Pelf
Witness

By Dennis Moffitt, Pres.
Dennis Moffitt, Pres.

Title: PRES.

Kelly Marcoux
Witness

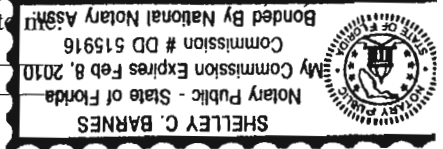
Date: 9-9-09

The foregoing instrument was acknowledged before me this 10 day of SEPT, 2009, by Joe P. Strickland, Jr. Mayor of the City of Bushnell, who has produced as identification or is personally known to me.

Shelley Barnes
Notary Public, State of Florida

State of FL
County of Suwannee

Commission # My Commission Expires:



The foregoing instrument was acknowledged before me this 9th day of September 2009, by Dennis Moffitt as President of MOFCO GROUP, INC., who has produced as identification or is personally known to me.

Shelley Barnes
Notary Public, State of Florida

State of FL
County of Suwannee

Commission # My Commission Expires:

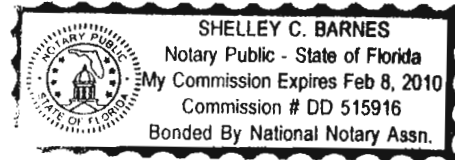


EXHIBIT "A"

LEGAL DESCRIPTION:

PARCEL 1

Commence at the Southwest corner of the West 1/2 of the Northwest 1/4 of the Northeast 1/4 of Section 31, Township 21 South, Range 22 East, Sumter County, Florida for the POINT OF BEGINNING; thence S.89°40'05"E., a distance of 1328.49 feet to the Northeast corner of the Southwest 1/4 of the Northeast 1/4 of said Section 31; thence S.00°12'18"W. along the East boundary of said Southwest 1/4 of the Northeast 1/4, a distance of 1038.28 feet, thence S.89°20'26"E., a distance of 736.21 feet, thence S.00°03'46"W., a distance of 295.03 feet to the South boundary of the Southeast 1/4 of the Northeast 1/4; thence N.89°23'24"W. along said South boundary, a distance of 736.94 feet to the Northeast corner of the Northwest 1/4 of the Southeast 1/4 of said Section 31; thence S.00°16'58"W. along the East boundary of the Northwest 1/4 of the Southeast 1/4 of said Section 31, a distance of 886.13 feet; thence S.89°25'01"E., a distance of 479.79 feet; thence S.00°16'05"W., a distance of 437.05 feet; thence S.89°27'55"E., a distance of 42.13 feet; thence S.00°09'39"W., a distance of 50.00 feet, thence N.89°27'50"W., a distance of 150.00 feet; thence S.00°09'40"W., a distance of 655.06 feet; thence N.70°31'36"E., a distance of 662.41 feet; thence N.23°29'45"E., a distance of 264.06 feet; thence S.89°38'19"E., a distance of 350.89 feet to the Westerly right-of-way of U.S. Highway 301; thence along said Westerly right-of-way, S.23°24'25"W., a distance of 551.09 feet to the Northerly right-of-way of State Road 478-1; thence along said Northerly right-of-way, S.70°31'45"W., a distance of 1654.23 feet; thence N.00°08'44"E., a distance of 349.91 feet; thence N.70°31'36"E. a distance of 482.27 feet; thence N.00°09'40"E., a distance of 481.00 feet; thence S.70°31'45"W., a distance of 481.00 feet; thence N.00°09'40"E., a distance of 476.54 feet to the North boundary of the South 1/2 of the Southeast 1/4 of said Section 31; thence N.89°27'56"W., a distance of 1326.10 feet to the Southwest corner of the Northwest 1/4 of the Southeast 1/4 of said Section 31; thence N.00°14'19"E. along the West boundary of the Northwest 1/4 of the Southeast 1/4, a distance of 1298.34 feet; thence N.89°27'02"W., a distance of 451.76 feet to the Easterly right-of-way of County Road 674; thence along said Easterly right-of-way, N.00°13'36"E., a distance of 1354.04; thence S.89°30'40"E., a distance of 449.87 feet to the POINT OF BEGINNING. SUBJECT TO an Easement across the West 25' thereof. Together with that easement from Jess W. Rice to the public dated January 16, 1978, recorded January 17, 1978 in Official Record Book 195 PAGE 792 of the Public Records of Sumter County, Florida. Containing 126.98 acres.

EASEMENT A

(Proposed grant of easement) Together with an easement for ingress and egress described as follows: Begin at the Northwest corner of the South 1/2 of the Southeast 1/4 of Section 31, Township 21 South, Range 22 East, Sumter County, Florida. Run East along the North boundary of the South 1/2 of the Southeast 1/4, 1848.12' to the POINT OF BEGINNING, thence continue East to the East line of the South 1/2 of the Southeast 1/4 of said Section 31, thence run South along the East line of the Southeast 1/4, 30.00', thence run West to a point 470.00' West of the East line of the Southeast 1/4; thence North 15.00'; thence West, 334.61' to a point 1848.12' East of the West boundary of the South 1/2 of the Southeast 1/4, thence turn North 15.00' to the POINT OF BEGINNING. LESS the East 241.37' thereof.

(EASEMENT B - AS PER OR 1616, PG 567) Together with and subject to an easement for ingress and egress described

as follows: From the Northeast corner of the Southeast 1/4 of the Southeast 1/4 of Section 31, Township 21 South, Range 22 East, Sumter County, Florida, run N89°27'57"W, along the North line of said Southeast 1/4 of the Southeast 1/4 a distance of 216.36' to the POINT OF BEGINNING of this easement description: From said POINT OF BEGINNING, continue N89°27'57"W along said line 25.01'; thence S02°19'47"W, 234.38'; thence S89°27'57"E, 375.02' more or less to the West right-of-way of U.S. HWY. 301; thence N23°24'50"E, along said West right-of-way 27.13'; thence N89°27'57"W, 359.77'; thence N02°19'47"E, 209.37' to the POINT OF BEGINNING and end of this easement description.

(EASEMENT C - AS PER GRANT OF EASEMENT DATED DECEMBER 4, 2006) Together with an easement for ingress and egress over the South 30 feet of the following described property: Begin 420 FEET West of the Southeast corner of the Northeast 1/4 of the Southeast 1/4 of Section 31, Township 21 South, Range 22 East, Sumter County, Florida, thence run North 840 feet; thence run West 420 feet; thence run South 840 feet; thence run East 420 feet to the POINT OF BEGINNING.

PARCEL 2

Commence at the South 1/4 corner of Section 31, Township 21 South, Range 22 East, Sumter County, Florida; thence S.89°26'34"E., a distance of 1246.12 feet to the Southerly right-of-way of State Road 478-1 and a POINT OF BEGINNING; thence N.70°32'23"E. along said Southerly right-of-way, a distance of 1338.31 feet to the Westerly right-of-way of U.S. Highway 301; thence S.23°25'01"W. along said Westerly right-of-way, a distance of 416.19 feet to the North right-of-way of Railroad; thence S.76°27'16"W. along said North right-of-way, a distance of 305.90 feet to the South Boundary of said Section 31; thence N.89°26'54"W. along said South boundary, a distance of 799.11 feet to the POINT OF BEGINNING. Containing 5.36 acres.

EXHIBIT "B"

EASEMENTS AND DEEDS

All required easements are defined in Part II, Paragraph B, Sec=

EXHIBIT "C"

Capacity Reservation Charges

<u>PARCEL</u>	<u>Quantity</u>	<u>Units</u>	<u>Costs/Unit</u>	<u>TOTAL COSTS</u>
MOFCO GROUP INC.				
REQUEST FOR SEWER CAPCITY	141	Commercial	\$3,000.00	\$423,000.00

CRITERIA FOR DETERMINATION OF CAPACITY RESERVATION CHARGE:

- a. 400 RV Lots
- b. 10,000 Sq.Ft. Clubhouse with 48 fixture units and Laundry Room with 4 washer hookups.

DISCLAIMER:

The above stated Capacity Reservation Charges are the number determined by review of the preliminary design plans. The final number shall be determined by review of the final design plans and the calculations adjusted accordingly.

EXHIBIT "D"

Capacity Availability Schedule and Payment Requirements

Initial payment for capacity reservation charges shall be made upon permit approval of all local, state and federal regulatory agencies and prior to commencement of any utility extension or site improvement activities for the development. This schedule of payment shall be as follows:

- First payment for clubhouse and all common amenities and for the first 100 lots in the total ERU value of 51 and the total dollar amount of \$153,000.00 upon receipt of final permit approval of all agencies and governments permitting the project.
- Second payment of an additional 50 Lots in the total ERU value of 15 and the total dollar amount of \$45,000.00 shall be paid upon connection of the sewer system to the first 50 constructed lots.
- Additional payment will continue at equivalent intervals of 50 lot constructions and connections to the sewer system as mentioned above, until all Capacity Reservation Charges have been paid in accordance to Exhibit "C". In all event, all Capacity Reservation Charges are due and payable to the City of Bushnell no later than 60 months from the Capacity Reservation Availability Date as set forth in Exhibit O.

EXHIBIT "E"

PETITION FOR VOLUNTARY ANNEXATION - CORPORATION
(SEC. 171.044, FLORIDA STATUTES)

TO: THE BUSHNELL CITY COUNCIL
City of Bushnell
State of Florida

Come now the Owner or Legal Representative who's name(s) appear below:

Name(s): Mofco Group, Inc.
Mail Address: _____
City, State, Zip: _____
Phone No. () _____

being all of the owner(s) of the following described property:

PARCEL NUMBER: _____ **SEC.** _____ **TWP.** _____ **RGE.** _____
LEGAL DESCRIPTION: See Exhibit "A"

Disclaimer: The City of Bushnell is not responsible for the accuracy of the legal description of the real property that is subject of this annexation application. If you are uncertain as to the legal description of the property, you should retain the services of a licensed surveyor to prepare the legal description of the property that is to be annexed into the City of Bushnell.

CURRENT COUNTY ZONING _____ **CURRENT COUNTY LANDUSE** _____

REQUESTED CITY ZONING/USE _____

And petition the City council for the City of Bushnell, Florida, to annex the described property into the City of Bushnell, and to re-define the City limits of the City of Bushnell in such manner as to include such property.

Petitioner(s) hereby state:

1. That the described real property is in an unincorporated area of Sumter County, Florida, which is, or will be, contiguous to the City of Bushnell at the time of final annexation, and;
2. That the real property sought to be annexed to the City of Bushnell is, or will be, reasonably compact within the meaning of law at the time of final annexation, and;
3. That an annexation of the described real property will not result in the creation of an enclave, in violation of law at the time of final annexation.
4. I understand that all rules, ordinances, land development regulations and taxation of the city will apply upon annexation to the city. I have been provided a summary of above-mentioned information.

This petition has been executed on _____, 20_____.

OWNER(S) OR LEGAL REPRESENTATIVE:

1st Witness

Printed name of 1st witness

By: _____
Printed name of authorized Representative

2nd Witness

Title: _____

Printed name of 2nd witness

SWORN TO ME AND SUBSCRIBED BEFORE ME THIS _____ DAY OF _____, 20_____.
PERSONALLY KNOWN TO ME [] OR IDENTIFICATION PROVIDED
DL NO. _____

SIGNATURE OF NOTARY

COPY OF DRIVER LICENSE ATTACHED _____ COPY OF WARRANTY DEED ATTACHED _____
LAND USE VERIFIED _____ ZONING VERIFIED _____ REQUESTED USE VERIFIED _____
RECEIVED BY THE CITY OF BUSHNELL, FLORIDA, ON _____, 20_____.

EXHIBIT "H"

**Preliminary Drawings and Construction Cost Estimates for
Sewer Utility Extension**



Sewer Tie In

H & B CONSULTING ENGINEERS, INC.
Certificate of Authorization # 4829
P.O. Box 520
4108 East Belt Avenue
Bunnell, Florida 33513
Phone : (352) 793-2113

**Water/Sewer Services
For LLC RV Park**

Drawn: RLL	Checked: KRB	
Date: 8/08	Scale: 1"=150'	Sheet 2 of 2

BID COST ESTIMATION
H & B CONSULTING ENGINEERS
WORKING DATE: SEPTEMBER 2008
PAGE 1

LLC RV PARK, SOUTH OF BUSHNELL
SEWER FORCE MAIN AND PUMP STATION TO SITE

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	TOTAL
101-1	MOBILIZATION	1.00	LS	12,500.00	12,500.00
102-1	MAINTENANCE OF TRAFFIC	1.00	LS	12,500.00	12,500.00
104-10	BAILED HAY OR STRAW	2.50	TN	500.00	1,250.00
104-13	STAKED SILT FENCE	2,000.00	LF	2.00	4,000.00
110-2	CLEARING & GRUBBING	1.00	LS	7,500.00	7,500.00
120-9	FINAL DRESSING/CLEANUP	1.00	LS	2,500.00	2,500.00
125-3	SELECT BEDDING MATERIAL	1,000.00	CY	10.00	10,000.00
125-7	TRENCH SAFETY ACT COMPLIANCE	1.00	LS	1,000.00	1,000.00
285-2	DRIVEWAY REMOVAL AND RESTORATION	350.00	SY	35.00	12,250.00
448-73	SEWER PUMP STATION (17 HP)	1.00	AS	100,000.00	100,000.00
570-2	SEED & MULCH	10,000.00	SY	0.50	5,000.00
575-1	SODDING	17,500.00	SY	2.00	35,000.00
575-1-4	SODDING (ST. AUGUSTINE)	2,500.00	SY	3.00	7,500.00
1511-120	D.I.P. FITTINGS F.M.	2.00	TN	7,500.00	15,000.00
1513-180-818	PIPE PVC(F&I)(PUSH-ON JOINT)6" FM CLASS 200	21,319.00	LF	12.00	255,828.00
1518-120-318	PIPE DUCTILE IRON (F&I) RESTRAINED JOINT 6"	2,040.00	LF	30.00	61,200.00
1542-114-18	VALVE PLUG (F&I) (CI) 6"	31.00	EA	1,228.75	38,091.25
1544-120-09	VALVE AIR RELIEF (F&I) (BRONZE) 2"	6.00	EA	630.00	3,780.00
1593-100	CONNECT TO EXISTING	4.00	EA	1,000.00	4,000.00
SUB-TOTAL =					588,899.25
CONTINGENCY @ 15% =					88,334.89
126 ERU X \$3,000.00 =					378,000.00
GRAND TOTAL =					1,055,234.14

EXHIBIT "O"

Schedule of Development Progress to maintain Capacity Reservation

Capacity reservation charge fees are not sold on speculation, and will be forfeited by development if significant progress is not attained. Significant progress shall be deemed to have occurred if the Developer has completed construction as indicated below within sixty (60) months of the schedule date of when capacity is made available to the Developer as defined by the Capacity Reservation Date. Capacity reservation charges are not refundable to the Developer.

Capacity Reservation Availability Date: _____ This date is the date that all of the requirements of Paragraph M of Part IV of the Agreement are met and this blank shall be filled in manually on all executed copies of the Agreement.

Significant development completion shall be deemed provided the following criteria are met as per the development site plan:

- Construction of all sewer mains must be installed, cleared and approved for commercial operations.
- Construction of all roadway connections and internal road system specific to the approved site plan for the development
- Construction of all related drainage specific to the approved site plan for the development must be completed and certified by the Engineer as to being built as to plans and specifications.